

BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL  
BY THE COMMISSIONER OF FAMILY AND COMMUNITY SERVICES

In the Matter of )

DION HUMPHREY )  
\_\_\_\_\_ )

OAH No. 22-0593-SAN  
Agency No. 955358



ORDER OF DISMISSAL

On May 25, 2022, the Office of Children's Services (OCS) received Mr. Humphrey's appeal of substantiated findings of physical abuse and neglect with regard to one of his sons. These findings stemmed from a report of harm received on September 7, 2021 (Protective Services Report No. 1303882). After receiving this appeal, OCS overturned the substantiated finding of physical abuse to "Not Substantiated." However, OCS declined to modify the substantiated finding of neglect, due to the alleged untimeliness of the appeal.<sup>1</sup> Mr. Humphrey then appealed OCS's determination not to forward his case to the Office of Administrative Hearings (OAH) due to the untimeliness of his appeal.

A hearing was held on July 28, 2022 and August 8, 2022 regarding whether OCS had met its burden of establishing an untimeliness defense. A decision, issued on October 10, 2022, determined that OCS had not met its burden of proof vis-à-vis the untimeliness of the appeal and the case was allowed to go forward on the merits.

Shortly before a status conference scheduled on January 9, 2023, OCS notified Mr. Humphrey that it was changing its substantiated finding of neglect from "Substantiated" to "Not Substantiated." According to OCS, the reason for this overturn was the unavailability of witnesses and OCS' inability to subpoena witnesses in support of its case.

At the status conference, OCS was represented by Jennamarie Test; Mr. Humphrey represented himself. Ms. Test advised this tribunal that she was requesting dismissal of the case due to mootness since the remaining substantiated finding (neglect) against Mr. Humphrey had been overturned. Mr. Humphrey did not oppose her motion. Since this case is moot as a result

////

///

//

/

<sup>1</sup> OCS maintained that it had sent a letter to Mr. Humphrey on December 14, 2021, notifying him of the substantiated findings of neglect and physical abuse. He filed an appeal of those substantiated findings on May 24, 2022, which was 162 days after the December 14, 2021 letter. However, Mr. Humphrey testified that he had never received the notice and did not learn of those findings until sometime in May of 2022. See OAH No. 22-0593-SAN (Decision on Timeliness and Notice of Hearing on the Merits), pp. 1-2.

of OCS's decision to overturn the substantiated finding of neglect, this case is DISMISSED.

DATED: January 10, 2023.

By: Kathleen A. Frederick  
Kathleen A. Frederick  
Administrative Law Judge

**Certificate of Service:** I certify that on January 11, 2023, a true and correct copy of this order was distributed as follows: Dion Humphrey (by mail and email); Jennamarie Test (by email); Brandi Gagnon (by email).

By: Haley Confield  
Office of Administrative Hearings